

APR 11 2008

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FACSIMILE TRANSMISSION	
Date: April 11, 2008	No. of Pages: <u>3</u> (including this cover page)
To: Examiner Cristina O. Sherr	From: Joseph D. Kuborn
Facsimile No. (571) 273-8300	
Our Ref: 4834-00007	
If transmission is incomplete or illegible, please telephone, fax or telex immediately.	
Message:	
Re: U.S. Patent Application No. 10/628,519	
<p><u>The information contained in this facsimile message is intended only for the personal and confidential use of the designated recipients named above.</u> This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message and all copies thereof to us by mail at our expense. Thank you.</p>	

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PTOL-413A (10-07)  
Approved for use through 04/30/2008. OMB 0851-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

### Applicant Initiated Interview Request Form

Application No.: 10/628,519 First Named Applicant: Gregory A. Ehlers  
Examiner: Cristina O. Sherr Art Unit: 3621 Status of Application: Pending

**Tentative Participants:**

(1) Joseph D. Kuborn (2) Gregg Ehlers (inventor)  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: 4-16-08 Proposed Time: 10:00 (AM/PM)

**Type of Interview Requested:**

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO  
If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rejection</u>	<u>1 37, 38,</u> <u>42</u>	<u>Ehlers '438</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

**Brief Description of Arguments to be Presented:**

See attached.

An interview was conducted on the above-identified application on \_\_\_\_\_  
**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Joseph D. Kuborn  
Applicant/Applicant's Representative Signature

\_\_\_\_\_  
Examiner/SPE Signature

Joseph D. Kuborn  
Typed/Printed Name of Applicant or Representative  
40,689

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.  
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Applicant wishes to discuss the disclosure of the Ehlers '438 reference with respect to the pending claims in the application. The inventor of the pending application is also the inventor of the cited Ehlers '438 reference. The '438 reference does not disclose the determination at the utility, in real time, of a capacity associated with the delivery of the commodity that may be available for management by activating the energy management program. Further, the Ehlers '438 reference does not disclose measuring the instantaneous rate at which the commodity is being delivered and sending the instantaneous rate to the utility in real time. Finally, the Ehlers '438 reference does not disclose measuring at least one of a rate and a change in the rate at which the commodity is being delivered to the subset of devices after activation of the energy management program.